

REMARKS

1. Status of claims

After entry of the above amendment, claims 1-8, 18-23, 26, 28-29, and 33-40 are pending. Claims 9-17, 24-25, 27, 30-32, and 41-64 have been canceled without prejudice.

2. Support for amendment

The above amendment finds support in the specification at p. 5, lines 19-20 and p. 7, lines 4-6.

3. Claim rejections under 35 U.S.C. § 112

The Examiner rejected claims 38, 46, 54, and 62 under 35 U.S.C. § 112, first paragraph, on the grounds that Figures 5-6 do not provide staining patterns identifiable by the skilled artisan. Claim 38 has been amended to not recite Figures 5-6 and claims 46, 54, and 62 have been canceled without prejudice. Therefore, Applicants submit the basis for this rejection has been removed and request it be withdrawn.

The Examiner rejected claims 37 and 41-64 under 35 U.S.C. § 112, second paragraph. Claims 37, 45, 53, and 61 were rejected on the grounds that "selected proteins" was indefinite. Claim 37 has been amended to recite the removal of any protein other than BMP-3 and TGF- β 2 from the bone protein mixture. Applicants respectfully submit this amendment clearly identifies what compositions may be used in the method as claimed in claim 37. Claims 45, 53, and 61 have been canceled without prejudice.

Claims 41-64 were rejected on the grounds that they are method claims depending from composition claims. Claims 41-64 have been canceled without prejudice.

Therefore, Applicants submit the bases for these rejections have been removed and request they be withdrawn.

4. *Claim rejections under 35 U.S.C. § 102*

The Examiner rejected claims 30-32 under 35 U.S.C. § 102(b) as being anticipated by US 5,290,763; US 5,371,191; and US 5,563,124. Claims 30-32 have been canceled without prejudice and Applicants submit the basis for this rejection has been removed and request it be withdrawn.

5. *Claim rejections under 35 U.S.C. § 103*

The Examiner rejected claims 9-17 and 27 under 35 U.S.C. § 103(a) as being unpatentable over US 5,290,763; US 5,371,191; and US 5,563,124. Claims 9-17 and 27 have been canceled without prejudice and Applicants submit the basis for this rejection has been removed and request it be withdrawn.

The Examiner rejected claim 24 under 35 U.S.C. § 103(a) as being unpatentable over US 5,290,763; US 5,371,191; and US 5,563,124, further in view of US 5,935,978. Claim 24 has been canceled without prejudice and Applicants submit the basis for this rejection has been removed and request it be withdrawn.

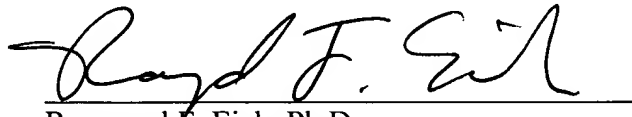
6. *Conclusion*

Applicants submit all pending claims are in condition for allowance. The Examiner is invited to contact the undersigned patent agent at (713) 934-4065 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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A handwritten signature in dark ink, appearing to read "Raymund F. Eich", is written over a horizontal line.

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